

### REMARKS

Applicants thank the Examiner for the thorough consideration given the present application. Claims 1-4, 7-14 and 17-21 are currently being prosecuted. The Examiner is respectfully requested to reconsider his rejections in view of the Amendments and Remarks as set forth hereinbelow.

### ALLOWABLE SUBJECT MATTER

It is gratefully acknowledged that the Examiner considers the subject matter of claims 10, 20 and 21 as being allowable if rewritten in independent form. As the Examiner will note, claim 6 has been cancelled and the subject matter added to claim 1. In addition, claim 16 has been cancelled and the subject matter added to claim and 11. The combination of elements set forth in the claims as amended clearly define patentable subject matter over the prior art cited in the Examiner's Office action. It is respectfully submitted that all of the claims of the present application are now in condition for allowance. If the Examiner does not agree that the present application is in condition for allowance, Applicants reserve the right to submit claims 10, 20 and 21 in independent form at a later date.

### REASONS FOR ENTRY OF AMENDMENT

It is respectfully submitted that the cancellation of claims 6 and 16 and the addition of the subject matter contained therein into claims 1 and 11, respectively, automatically places the present application in condition for allowance.

If the Examiner does not agree that the application is in condition for allowance, it is respectfully requested that the present amendment should be entered since the amendment

places the application in better form for appeal. The present amendment reduces the issues on appeal by overcoming the Examiner's objection to the claims and by cancelling claims 6 and 16 and adding the subject matter to claims 1 and 11, respectively. The present amendment was not presented at an earlier date in view of the fact that the Examiner's objection to the claims was set forth in the Final Rejection and Applicants did not fully understand the Examiner's grounds of rejection until they had an opportunity to review the Examiner's last office action. It is requested that the present amendment be entered into the present application.

#### OBJECTION TO THE DRAWINGS

The Examiner has accepted the drawings filed on December 6, 2007. No further action is necessary in connection with the drawings.

#### OBJECTION TO THE CLAIMS

Claims 1, 2, 11 and 12 stand objected to by the Examiner. This rejection is respectfully traversed.

As the Examiner will note, the claims have been amended to incorporate the Examiner's helpful suggestions to provide proper antecedent basis. The Examiner's objection has been obviated. In addition, draft plug has been changed to draft seal to more clearly identify the subject matter of the present invention.

### REJECTION UNDER 35 USC 103

Claims 1-3, 6-9, 11-13 and 16-19 stand rejected under 35 USC 103 as being unpatentable over by Layne, US 4,349,992 in view of Alexander, US 6,405,397. Claims 4 and 14 stand rejected under 35 USC 103 as being unpatentable over Layne '992 in view of Alexander '397 and further in view of Ashelin et al, US Patent Application Publication No. 2002/0152562. These rejections are respectfully traversed.

At the outset, it is respectfully pointed out that the prior art does not disclose a combination of elements wherein the bottom pad is vertically adjustable relative to the first mounting bracket and the second mounting bracket as set forth in claims 6 and 16 which have been cancelled the subject matter added to claims 1 and 11, respectively.

As set forth on pages 5, 6 and 9 of the Examiner's Office Action, it is the Examiner's position that the bottom pad (12) of Layne is vertically adjustable relative to the first mounting bracket (left 22) and the second mounting bracket (right 22). The Examiner's attention is respectfully directed to column 2, lines 47-53 of the Layne patent. As the Examiner will note, the bracket 22 is welded or otherwise secured to the inner face of the channel 16 with an inwardly extending horizontal flange being preferably welded to the angle 23.

It is respectfully submitted that the bottom pad 12 disclosed in the Layne patent is not vertically adjustable as set forth in the Examiner's Office Action. The Examiner is respectfully requested to reconsider the rejections of the claims in view of the amendments to

claims 1 and 11. All of the claims of the present application are now in condition for allowance.

Further, the Examiner conceded that the Layne patent fails to disclose a leveler lip that is pivotally mounted relative to the ramp portion on a distal end of the thereof. The Examiner relied on the Alexander '397 patent for apparently disclosing a dock leveler with a leveler lip that is pivotally mounted relative to the ramp portion.

Again, it is respectfully submitted that the proposed modification of the Layne patent in view of the Alexander '397 patent would render inoperative the bumper seal 10 disclosed in the Layne patent. More specifically, as illustrated in Fig. 2 of the Layne patent, the bumper seal 10 extends along the width of the truck T and is disposed to engage the truck T. The bumper seal 10 is designed to span between the bumper blocks 11.

In the Alexander '397 patent, the leveler lip 45 is disposed to be in the space between the bumpers 40. By modifying the Layne patent to include a leveler with a leveler lip 45 as disclosed by Alexander '397 would destroy the teaching of the bumper seal 10 that forms part of the invention of the Layne patent.

The Examiner indicates on page 12 of the Office Action that no reason is provided as to why the proposed modification of the Layne patent in view of the Alexander '397 patent would destroy the teaching of the bumper seal 10 used in the Layne patent. To explain, the Alexander '397 patent discloses a loading dock with a lip 30 that extends between the bumpers 40. If one of ordinary skill in this art would modify the Layne patent to include a lip assembly 30 as disclosed in the Alexander '397 patent, the lip assembly 30 would extend between the bumpers 11 of

Layne and would remove the bumper seal 10 that extends therebetween. Such a modification is not sanctioned by the provisions of 35 USC 103.

With regard to claims 4 and 14, the Examiner acknowledges that neither the Layne nor the Alexander '397 patent disclose a draft seal within a clearance space. It is respectfully pointed out that neither the Layne nor the Alexander '397 patents disclose such a clearance space that would require a draft seal. The Examiner further relied on the Ashelin patent for a teaching of a bottom draft seal 94.

It is respectfully submitted that one of ordinary skill in this art would not modify the Layne patent to include a bottom draft seal as suggested by the Examiner. The Layne patent does not address the problem of debris in the clearance space that is solved by the bottom draft seal of the present invention. It is respectfully submitted that the Examiner's rejections based on 35 USC 103 have been obviated.

With regard to Layne disclosing a clearance space that would require a draft seal, the Examiner's attention is respectfully directed to Fig. 4 wherein the angle (21) is illustrated as extending between the left and right brackets 22. In view of the angle (21), no clearance space is provided that would require a draft seal.

#### NO PROSECUTION HISTORY ESTOPPEL

The claims have been amended to clarify the subject matter of the present invention in view of the Examiner's objections to the claims. No prosecution history estoppel would apply to the interpretation of the limitations set forth in claims 1 as amended to include the

subject matter of claim 6 and 11 as amended to include the subject matter of claim 16 and the claims that depend therefrom in view of the fact that this subject matter has been continuously presented since the original filing date of the present application.

#### REQUEST FOR INTERVIEW

If the Examiner has any questions with regard to this application, he/she is respectfully requested to contact the undersigned at (703) 205-8000 so that an interview can be arranged in connection with this application.

#### CONCLUSION

In view of the above remarks, it is believed that the claims clearly distinguish over the patents relied on by the Examiner, either alone or in combination.

Since the remaining patents cited by the Examiner have not been utilized to reject the claims, but to merely show the state of the art, no comment need be made with respect thereto.

In view of the above amendments and remarks, reconsideration of the rejections and allowance of all of the claims are respectfully requested.

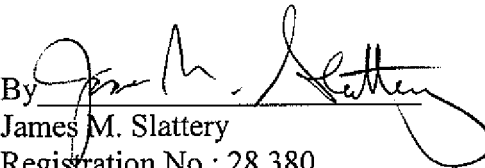
All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

A prompt and favorable consideration of this Amendment is respectfully requested.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.147; particularly, extension of time fees.

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Respectfully submitted,

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